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8 Attorneys for the Plaintiffs

FILED

OCT 15 PM 2: 29

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

es DEPUTY

9 **UNITED STATES DISTRICT COURT**  
 10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **10 CV 2158**

**L RBB**

12 **JOUBIN MORTEZAPOUR, AND**  
 13 **SEYED RAZAVI INDIVIDUALLY**  
 14 **AND ON BEHALF OF ALL OTHERS**  
 15 **SIMILARLY SITUATED**

16 **PLAINTIFFS,**

17 **V.**

18 **DIRECTV, INC., and**  
 19 **DIRECTV HOLDINGS LLC,**  
 20 **DEFENDANTS.**

Case Number: \_\_\_\_\_

**CLASS ACTION**

**COMPLAINT FOR DAMAGES**  
**AND INJUNCTIVE RELIEF**  
**PURSUANT TO THE**  
**TELEPHONE CONSUMER**  
**PROTECTION ACT, 47 U.S.C §**  
**227 ET SEQ.**

**Jury Trial Demanded**

21 **INTRODUCTION**

- 22
- 23
- 24 1. Joubin Mortezapour (hereinafter "Mortezapour") and Seyed Razavi
- 25 (hereinafter "Razavi"), or collectively referred to as "Plaintiffs", bring this class
- 26 action for damages, injunctive relief, and any other available legal or equitable
- 27 remedies, resulting from the illegal actions of Directv, Inc. (hereinafter
- 28 "Directv" or "Defendant"), and Directv Holdings, LLC (hereinafter "Holdings")

CR

**ORIGINAL**

1 or "Defendant"), collectively referred to as "Defendants", in negligently, and/or  
2 willfully contacting Plaintiffs on Plaintiffs' cellular telephones, in violation of  
3 the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., ("TCPA"),  
4 thereby invading Plaintiffs' privacy. Plaintiffs allege as follows upon personal  
5 knowledge as to themselves and their own acts and experiences, and, as to all  
6 other matters, upon information and belief, including investigation conducted by  
7 their attorneys.

#### 8 JURISDICTION AND VENUE

- 9 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiffs seek relief  
10 on behalf of a national class, which will result in at least one class member  
11 belonging to a different state than that of Defendants. Plaintiffs also seek up to  
12 \$1,500 in damages for each call in violation of the TCPA, which, when  
13 aggregated among a proposed class number in the tens of thousands, exceeds the  
14 \$5,000,000 threshold for federal court jurisdiction. Therefore, both elements of  
15 diversity jurisdiction under the Class Action Fairness Act of 2005 ("CAFA") are  
16 present, and this Court has jurisdiction.
- 17 3. Venue is proper in the United States District Court for the Southern District of  
18 California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because Defendants do  
19 business within the State of California and the County of San Diego.

#### 20 PARTIES

- 21 4. Plaintiffs are, and at all times mentioned herein was, individual citizens and  
22 resident of the State of California. Plaintiffs are, and at all times mentioned  
23 herein were, "person(s)" as defined by 47 U.S.C. § 153 (10).
- 24 5. Directv is the nation's largest provider of digital-to-home (DTH) entertainment  
25 via satellites to residential and commercial customers, with over 18 million  
26 subscribers and revenues in 2009 of more than \$21 billion. Holdings is a wholly  
27 owned subsidiary of Directv. Both Defendants are Delaware corporations but  
28 both have their headquarters in California and both do business within this

1 judicial district and in the County of San Diego. Both Defendants were at all  
2 times mentioned herein, corporations and "persons," as defined by 47 U.S.C. §  
3 153 (10).

- 4 6. Plaintiffs are informed and believe, and on the basis of that information and  
5 belief allege, that at all times mentioned in this Complaint, Defendants were  
6 the agents and employees of their codefendants, and in doing the things  
7 alleged in this Complaint, were acting within the course and scope of that  
8 agency and employment.

9 **FACTUAL ALLEGATIONS**

- 10 7. At all times relevant, Plaintiffs were individuals residing within the State of  
11 California. Plaintiffs are, and at all times mentioned herein were, "persons"  
12 as defined by 47 U.S.C. § 153 (10).
- 13 8. Defendants are, and at all times mentioned herein were, corporations and  
14 "persons," as defined by 47 U.S.C. § 153 (10).
- 15 9. On multiple occasions over numerous days, all prior to the date this  
16 Complaint was filed, but sometime after four years prior to the date this  
17 Complaint was filed, Defendants, either directly or through their agents,  
18 contacted both Plaintiffs on Plaintiffs' respective cellular telephones via an  
19 "automatic telephone dialing system," as defined by 47 U.S.C. § 227 (a)(1).
- 20 10. During these telephone calls Defendants used "an artificial or prerecorded  
21 voice" as prohibited by 47 U.S.C. § 227 (b)(1)(A).
- 22 11. The telephone numbers Defendants called were assigned to a cellular  
23 telephone service for which Plaintiffs incurred charges for incoming calls  
24 pursuant to 47 U.S.C. § 227 (b)(1).
- 25 12. These telephone calls constituted calls that were not for emergency purposes  
26 as defined by 47 U.S.C. § 227 (b)(1)(A)(i).
- 27  
28

1 13. Plaintiffs did not provide prior express consent to Defendants to receive calls  
2 on Plaintiffs' respective cellular telephones, pursuant to 47 U.S.C. § 227  
3 (b)(1)(A).

4 14. These telephone calls by Defendants violated 47 U.S.C. § 227(b)(1).

5 **CLASS ACTION ALLEGATIONS**

6 15. Plaintiffs bring this action on behalf of themselves and on behalf of and all  
7 others similarly situated ("The Class").

8 16. Plaintiffs represent, and are members of, The Class, consisting of all persons  
9 within the United States who received any telephone call(s) from Defendants  
10 to said persons' cellular telephones made through the use of any automatic  
11 telephone dialing system or an artificial or prerecorded voice, within the four  
12 years prior to the filing of this Complaint.

13 17. Defendants, their employees and agents are excluded from The Class.  
14 Plaintiffs do not know the number of members in The Class, but believe The  
15 Class Members number in the tens of thousands, if not more. Thus, this  
16 matter should be certified as a Class action to assist in the expeditious  
17 litigation of this matter.

18 18. Plaintiffs and members of The Class were harmed by the acts of Defendants  
19 in at least the following ways: Defendants illegally contacted Plaintiffs and  
20 Class members via their cellular telephones thereby causing Plaintiffs and  
21 Class members to incur certain cellular telephone charges or reduce cellular  
22 telephone time for which Plaintiffs and Class members previously paid, by  
23 having to retrieve or administer messages left by Defendants during those  
24 illegal calls, and invading the privacy of said Plaintiffs and Class members.  
25 Plaintiffs and The Class were damaged thereby.

26 19. This suit seeks only damages and injunctive relief for recovery of economic  
27 injury on behalf of The Class and it expressly is not intended to request any  
28 recovery for personal injury and claims related thereto. Plaintiffs reserve the

1 right to expand The Class definitions to seek recovery on behalf of additional  
2 persons as warranted as facts are learned in further investigation and  
3 discovery.

4 20. The joinder of the Class members is impractical and the disposition of their  
5 claims in the Class action will provide substantial benefits both to the parties  
6 and to the court. The Class can be identified through Defendant's records.

7 21. There is a well-defined community of interest in the questions of law and fact  
8 involved affecting the parties to be represented. The questions of law and fact  
9 to the Class predominate over questions which may affect individual Class  
10 members, including the following:

11 a. Whether, within the four years prior to the filing of this  
12 Complaint, Defendants made any call (other than a call made for  
13 emergency purposes or made with the prior express consent of  
14 the called party) to a Class member using any automatic  
15 telephone dialing system or an artificial or prerecorded voice to  
16 any telephone number assigned to a cellular telephone service.

17 b. Whether Plaintiffs and the Class were damaged thereby, and the  
18 extent of damages for such violation; and

19 c. Whether Defendants should be enjoined from engaging in such  
20 conduct in the future.

21 22. As persons that received numerous calls using an automatic telephone dialing  
22 system or an artificial or prerecorded voice, without either Plaintiffs' express  
23 prior consent, and as persons that never provided their respective cellular  
24 telephone numbers to Defendants for the purpose of receiving unsolicited  
25 calls on their cellular telephones, Plaintiffs are asserting claims that are  
26 typical of the Class. Plaintiffs will fairly and adequately represent and protect  
27 the interests of the Class in that Plaintiffs have no interests antagonistic to any  
28 member of the Class.

1 23. Plaintiffs and the members of the Class have all suffered irreparable harm as a  
2 result of the Defendants' unlawful and wrongful conduct. Absent a class  
3 action, the Class will continue to face the potential for irreparable harm. In  
4 addition, these violations of law will be allowed to proceed without remedy  
5 and Defendants will likely continue such illegal conduct. Because of the size  
6 of the individual Class member's claims, few, if any, Class members could  
7 afford to seek legal redress for the wrongs complained of herein.

8 24. Plaintiffs have retained counsel experienced in handling class action claims  
9 and claims involving violations of the Telephone Consumer Protection Act.

10 25. A class action is a superior method for the fair and efficient adjudication of  
11 this controversy. Class-wide damages are essential to induce Defendants to  
12 comply with federal and California law. The interest of Class members in  
13 individually controlling the prosecution of separate claims against Defendant  
14 is small because the maximum statutory damages in an individual action for  
15 violation of privacy are minimal. Management of these claims is likely to  
16 present significantly fewer difficulties than those presented in many class  
17 claims.

18 26. Defendants have acted on grounds generally applicable to the Class, thereby  
19 making appropriate final injunctive relief and corresponding declaratory relief  
20 with respect to the Class as a whole.

21 **FIRST CAUSE OF ACTION**

22 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

23 **47 U.S.C. § 227 *ET SEQ.***

24 27. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint  
25 as though fully stated herein.

26 28. The foregoing acts and omissions of Defendants in making the calls to the cell  
27 phones of Plaintiffs and The Class constitute numerous and multiple negligent  
28

1 violations of the TCPA, including but not limited to each and every one of the  
2 above-cited provisions of 47 U.S.C. § 227 *et seq.*

3 29. As a result of Defendants' negligent violations of 47 U.S.C. § 227 *et seq.*,  
4 Plaintiffs and The Class are entitled to an award of \$500.00 in statutory  
5 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

6 30. Plaintiffs and The Class are also entitled to and seek injunctive relief prohibiting  
7 such conduct in the future.

8 **SECOND CAUSE OF ACTION**

9 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE**

10 **TELEPHONE CONSUMER PROTECTION ACT**

11 **47 U.S.C. § 227 *ET SEQ.***

12 31. Plaintiffs incorporate by reference paragraphs 1 through 26 of this Complaint as  
13 though fully stated herein.

14 32. The foregoing acts and omissions of Defendants in making the calls to the cell  
15 phones of Plaintiffs and The Class, constitute numerous and multiple knowing  
16 and/or willful violations of the TCPA, including but not limited to each and  
17 every one of the above-cited provisions of 47 U.S.C. § 227 *et seq.*

18 33. As a result of Defendants' knowing and/or willful violations of 47 U.S.C. § 227  
19 *et seq.*, Plaintiffs and The Class are entitled to treble damages, as provided by  
20 statute, up to \$1,500.00, for each and every violation, pursuant to 47 U.S.C. §  
21 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

22 34. Plaintiffs and The Class are also entitled to and seek injunctive relief prohibiting  
23 such conduct in the future.

24 **PRAYER FOR RELIEF**

25 Wherefore, Plaintiffs respectfully requests the Court grant Plaintiffs and The  
26 Class members the following relief against Defendants:



**FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF  
THE TCPA, 47 U.S.C. § 227 *ET SEQ.***

- As a result of Defendants' negligent violations of 47 U.S.C. § 227(b)(1), Plaintiffs seek for themselves and each Class member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

**SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL VIOLATION  
OF THE TCPA, 47 U.S.C. § 227 *ET SEQ.***

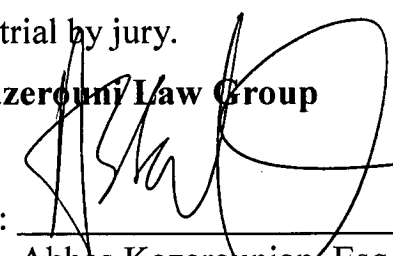
- As a result of Defendants' willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiffs seek for themselves and each Class member treble damages, as provided by statute, up to \$1,500.00 for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

**TRIAL BY JURY**

Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiffs are entitled to, and demand, a trial by jury.

Date: October 15, 2010

**Kazerouni Law Group**

By:   
Abbas Kazerounian, Esq.  
Attorneys for Plaintiff



JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Joubin Morteza pour, and Seyed Razavi, Individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Abbas Kazerounian, Esq. 2700 North Main Street, Ste. 1050.  
Santa Ana, CA 92866. 800-400-6808

## DEFENDANTS

Directv, Inc., and Directv Holdings LLC PM 2:29

County of Residence of First Listed Defendant Los Angeles  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Unknown **10 CV 2158**

**RBB**

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY - Med. Malpractice</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28:1331 year

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10-15-10

SIGNATURE OF ATTORNEY OF RECORD

Abbas Kazerounian

FOR OFFICE USE ONLY

RECEIPT #

19144

AMOUNT

\$350-

APPLYING IFP

JUDGE

MAG. JUDGE

10-15-10

**ORIGINAL**

Court Name: USDC California Southern  
Division: 3  
Receipt Number: CAS019144  
Cashier ID: mbain  
Transaction Date: 10/15/2010  
Payer Name: KAZEROUNI LAW GROUP

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CIVIL FILING FEE

For: MORTEZAPOUR V DIRECTV  
Case/Party: D-CAS-S-10-CV-002158-001  
Amount: \$350.00

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CHECK

Check/Money Order Num: 112  
Amt Tendered: \$350.00

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Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

There will be a fee of \$45.00  
charged for any returned check.